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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,935	09/25/2006	Milisav Lazarevic	OSG-100	5442
Talivaldis Cepuritis OLSON & CEPURITIS, LTD. 20 North Wacker Drive, 36th Floor Chicago, IL 60606				
			EXAMINER	
			ALIE, GHASSEM	
			ART UNIT	PAPER NUMBER
			3724	
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			11/05/2009 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/593,935

Applicant(s)

LAZAREVIC, MILISAV

Examiner

GHASSEM ALIE

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Objections

1. The claims 1, 3, and 5 are objected to because they include reference characters which are not enclosed within parentheses. Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m). It should be noted that references such as “A”, “D-1” and “D-2” are not enclosed within parentheses.
2. Claims 1 and 3 are objected to because of the following informalities: claims 1 and 2 are not written in a clear manner. It is suggested that applicant reviews the claims and rewrite the claims in a clear manner.

In claims 1 and 3, “a housing (10, 11) circularly shaped compound spur gear (16) and feed spur gear (17) with gear teeth (80) projecting thereon and being rotatably mounted in said housing about a common axis A and being included in respective gear trains, a motor (33) mounted in said housing for rotating said gears, said housing, and said gears each having a gap (52) extending therein and all said gaps being alignable together in only one direction viewed parallel to said axis for reception of a workpiece (14) in the aligned said gaps, said gears having cam slots (61, 69, 58 and 67), cam follower shafts (56 and 66) connected to said gears through said cam slots for having said feed spur gear (17) in rotatably driven relationship with said compound spur gear.(16), a cutting blade (22) supported by said cam follower shaft (56) and rollers (64) supported by said cam follower shaft (66) and with said blade and said rollers projecting into said gaps for engagement of and cutting of said

workpiece upon applying said rotation of said feed spur gear (17) at a rotation speed different from the rotation speed of said compound spur gear (16) and thereby move said cam follower shafts in said slots and radially of said axis, the improvement comprising: said compound spur gear (16) and feed spur gear (17) have spur gear tooth pitch diameters D-1 and D-2 in respective lengths extending through said axis and diametrically across said gears with the said length of said pitch diameter D-1 of said feed spur gear (17) being different from the said length of said pitch diameter D-2 of said compound spur gear (16) for the rotation of said feed spur gear (17) at a rotation speed different from the rotation speed of said compound spur gear wherein said two gear trains each being a plurality of gears and including said compound spur gear (16) and feed spur gear (17), and including command drive gear (44) and command feed gear (77) of pitch diameters different from each other, and a clutch (81) rotationally connected with said two gear trains for rotationally connecting said command drive gear (44) and said command feed gear (77) together for inducing said different rotation speeds of said compound spur gear (16) and said feed spur gear (17).” Should be --a housing (10, 11); circularly shaped compound spur gear (16) and feed spur gear (17) having gear teeth (80) projecting thereon and being rotatably mounted in said housing about a common axis (A), said compound and feed spur gears being included in respective gear trains; a motor (33) mounted in said housing for rotating said compound and feed spur gears, said housing and said compound and feed spur gears each having a gap (52) extending therein and all said gaps being alignable together in only one direction viewed parallel to said axis for reception of a workpiece (14) in the aligned said gaps; said compound and feed spur gears having cam slots (61, 69, 58 and 67); cam follower shafts (56 and 66) connected to said

compound and feed spur gears through said cam slots for rotatably driving said feed spur gear (17) in relationship with said compound spur gear (16); a cutting blade (22) supported by said cam follower shaft (56); and rollers (64) supported by said cam follower shaft (66), said blade and said rollers projecting into said gaps for engagement of and cutting of said workpiece upon applying said rotation of said feed spur gear (17) at a rotation speed different from the rotation speed of said compound spur gear (16) and thereby move said cam follower shafts in said slots and radially of said axis, the improvement comprising: said compound spur gear (16) and feed spur gear (17) have spur gear tooth pitch diameters D-1 and D-2 in respective lengths extending through said axis and diametrically across said gears, said length of said pitch diameter D-1 of said feed spur gear (17) being different from the said length of said pitch diameter D-2 of said compound spur gear (16) so that the feed spur gear (17) rotates at a rotation speed different from the rotation speed of said compound spur gear, wherein said two gear trains each include a plurality of gears, each gear train includes said compound spur gear (16), said feed spur gear (17), a command drive gear (44) and a command feed gear (77) of pitch diameters different from one another, and a clutch (81) rotationally connected with said two gear trains for rotationally connecting said command drive gear (44) and said command feed gear (77) together so that the rotation speed of said compound spur gear (16) is different than the rotation speed of the feed spur gear (17).--.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1 and 3-5, different parts are only distinguished by reference numbers. Therefore, it is confusing and it is not clear what are specific parts without looking at the reference numbers. For example, “a motor (33) mounted in said housing for rotating said gears, said housing and gears each having a gap”, “said gears having cam slots (61, 69, 58 and 67), and “cam follower shafts (56 and 66) connected to said gears” are confusing. It is not clear what encompasses the word “gears.” It is not clear whether the word “gears” includes the gear trains also or only the feed and compound spur gears.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazarevic (6,065,212) in view of Nanzai (5,881,616). Regarding claim 1, as best understood, Lazarevic teaches substantially the claimed invention except that the gears 16, 17 have spur gear tooth pitch diameters D-1 and D-2 in respective lengths extending through the axis and diametrically across the gears and with the length of the pitch diameter D-1 of said gear 17 being different from the length of the pitch diameter D-2 of the gear 16 for the rotation of the gear 17 at a rotation speed different from the rotation speed of the gear 16. However, Nanzai

teaches a powered pipe cutter including a main gear 7 and a cam mounting gear 8 stacked in parallel relationship similar to gears 16, 17 in Lazarevic. Nanzai also teaches that the gears 7, 8 have spur gear tooth pitch diameters in respective lengths extending through the axis and diametrically across the gears and with the length of the pitch diameter of said gear 7 being different from the length of the pitch diameter of the gear 8 for the rotation of the different from the rotation speed of the gear 7. It should be noted that gears 7 and 8 have different gear pitch diameters. See col. 3, lines 1-67 and col. 4, lines 1-32 in Nanzai. It would have been obvious to a person of ordinary skill in the art to provide Lazarevic's powered cutter with the different spur gear tooth pitch diameters for the spur gears, as taught by Nanzai, in order to prevent production of burrs on an inner side wall of a cut portion or on a cut face of the pipe.

Allowable Subject Matter

7. Claims 3-5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Amendment

8 Applicant's argument's filed on 08/12/09 have been considered but they are not persuasive. Applicant's argument that the spur gear arrangement shown by Lazarevic has a common axis and is not even close to that shown in Nanzai is not persuasive. Nanzai teaches that the gears 7, 8 have spur gear tooth pitch diameters in respective lengths extending through the axis and diametrically across the gears and with the length of the pitch diameter of said gear 7 being different from the length of the pitch diameter of the gear 8 for the rotation of the different from the rotation speed of the gear 7. It should be noted that gears

7 and 8 have different gear pitch diameters. See col. 3, lines 1-67 and col. 4, lines 1-32 in Nanzai. The gears 7, 8 in Nanzai have a common axis and the spur gears 16, 17 in Lazarevic. In n response to applicant's argument that Nanzai's apparatus in a pipe cutter and is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, in fact the Nanzai's apparatus cuts pipe which is in the same art as tube cutters such as the tube cutter in Lazarevic. In addition, Nanzia teaches the concept of having two spur gears driven by a motor and having different diameter. The spur gears in Nanzia may not be exactly the same as spur gears in Lazarvic; however this does not mean that a person of ordinary skill in the art is not inclined to apply the concept of different diameter for the spur gears to similar spur gears such as the spur gears of Lazarvic.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ghassem Alie/

Primary Examiner, Art Unit 3724

November 4, 2009